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SOUGHT TO BE SEALED

Attorneys for Defendant: Otto Trucking LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Waymo LLC,

Plaintiff,

v.

Uber Technologies, Inc.; Ottomotto LLC; Otto
Trucking LLC,

Defendants.

Case No. 3:17-cv-00939-WHA

**OTTO TRUCKING'S SUPPLEMENTAL
PROPOSED PRETRIAL ORDER**

OTTO TRUCKING'S SUPPLEMENTAL PROPOSED PRETRIAL ORDER

Otto Trucking respectfully submits the following Supplemental Proposed Pretrial Order in light of deposition testimony from Waymo's damages expert, Michael Wagner, that occurred on September 22, 2017, after the filing of the Joint Proposed Pretrial Order. *See* Dkt. No. 1725. Otto Trucking incorporates by reference herein its prior submission. *Id.* at 9–11.

As Otto Trucking noted previously, Waymo's trade secret claims against it are meritless because Otto Trucking had no involvement in the research or development of the Spider and Fuji LiDAR systems at issue and, thus, did not misappropriate or use any of Waymo's alleged trade secrets. Mr. Wagner admitted at his deposition that [REDACTED]

[REDACTED] Dkt. No. 1787-1 (9/22/17 Wagner Dep. Tr.) at 136:19–23. Waymo therefore has no evidence to support a claim against Otto Trucking, whether it be based on direct liability or joint and several liability.

Otto Trucking further noted that, even assuming, for purposes of argument, that Waymo could establish liability against it, any recovery from Otto Trucking should be denied at least because Waymo has no viable damages theory against Otto Trucking. At his deposition, Mr. Wagner confirmed that [REDACTED]. Given these admissions, Mr. Wagner should be precluded from offering at trial any damages opinions with respect to Otto Trucking. Mr. Wagner's admissions are as follows (all cites to Dkt. No. 1786-1):

- 127:12–15: [REDACTED]

- 128:14–22: [REDACTED]

- 134:15–18: [REDACTED]

- 1 - 136:18–137:4: [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 - 138:10–14: [REDACTED]
5 [REDACTED]
6 - 142:3–7: [REDACTED]
7 [REDACTED]

8 Dated: September 26, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Northern District of California by using the CM/ECF system on **September 26, 2017**. I further certify that all participants in the case are registered CM/ECF users and that service of the publicly filed document will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed on **September 26, 2017**.

/s/ Neel Chatterjee
NEEL CHATTERJEE